

January \_\_, 1996

Litle & Company, Inc.  
54 Stiles Road  
Salem, NH 03079

First USA Merchant Services, Inc.  
[Insert Address]  
Dallas, TX [Zip Code]

Ladies and Gentlemen:

We refer to the Member Agreement, executed by the last signatory thereto on January <sup>1</sup>, 1996 (together with all Schedules thereto, the "Member Agreement") among Philip Morris Incorporated ("Member"), Litle & Company, Inc. ("Litle") and First USA Merchant Services, Inc. ("FUSA"). Capitalized terms used in this letter shall have the meanings ascribed to them in the Member Agreement. Set forth below are certain modifications to the Member Agreement.

1. Notwithstanding anything to the contrary in the Member Agreement, the Member shall be obligated to process under the Member Agreement only those Card Sale transactions that occur during the term of the Member Agreement that relate to Member's Marlboro Unlimited Gear promotion (pursuant to which orders postmarked after <sup>1996</sup> October 31, 1996 will not be accepted by Member) (the "Promotion"). Member shall have no liability or obligation to pay Litle any Fees for any Card Sale transactions processed by any entity other than Litle that do not relate to the Promotion.

2. Notwithstanding anything to the contrary in the Member Agreement, Member shall not be required to honor any T&E Card as payment for Products.

VSA  
m/c [signature]

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3. (a) Notwithstanding anything to the contrary in the Member Agreement, the aggregate Fees payable by Member shall be those Fees set forth on Schedule A to the Member Agreement, it being expressly understood by the parties to the Member Agreement that the Fees set forth on Schedule A include both the Processing Fee and the Pass Through Fee.

(b) Member, Litle and FUSA agree that, notwithstanding anything to the contrary in the Member Agreement, the Fees set forth on Schedule A thereto shall not be increased except as may be necessary to correspond to an increase by VISA or MCI in any fee described in the Member Agreement under the definition of Pass Through Fee.

4. Section 3(c) of the Member Agreement is modified so that Member shall be required to obtain the imprint of the embossed legend from the imprinter plate or the electronic equivalent only for in-person transactions

5. Section 4(g) of the Member Agreement is modified to change "thirty (30) days" to "one hundred and twenty (120) days."

6. Sections 5 and 6 of the Member Agreement are deleted in their entirety.

7. Clause (c) of the first paragraph of Section 11 of the Member Agreement is deleted and the following is substituted in its place: "(c) assume a continuing security interest in the Sales Records and the rights, remedies and privileges pertaining to the Sales Records, and is hereby authorized to sign and file financing statements evidencing such security interest."

8. The second paragraph of Section 11 of the Member Agreement is modified to insert the words "transaction in which the Member has actively participated in a fraud" in place of the words "fraudulent transaction."

9. The first sentence of Section 13 is amended by adding the following at the end of such sentence "provided, however, that no such amendment to FUSA's Operational Instructions shall be, become or constitute a part of such agreement unless, and only to the extent that, such amendment to FUSA's Operational Instructions are necessary to conform to amendments in MCI's Rules or VISA's Operating Regulations." It is expressly understood and agreed to by the parties to the Member Agreement that the "entire agreement," as that phrase is used in Section 13 of the Member Agreement, includes the separate confidentiality letter, dated January \_\_, 1996 between Member, Litle and FUSA (the "Confidentiality Agreement").

10. The third, fourth and fifth sentences of Section 14(b) of the

Member Agreement are deleted in their entirety, and the following is inserted as the new third sentence: "No such revision shall be effective against Member without Member's prior written consent (which consent shall not be unreasonably withheld or delayed), except that such consent shall not be required to the extent that such revision is necessary to conform to a change in MCI's Rules or VISA's Operating Regulations.

11. None of the disclaimers or limitations of liability set forth in Section 15 of the Member Agreement shall apply where any failure of performance or nonperformance, or any damage or claim of Member or any third party, results or arises from the gross negligence or willful misconduct of Litle or FUSA, as the case may be.

12. The first sentence of Section 16(c) is amended to add the words "that Litle is authorized to charge against Gross Proceeds pursuant to Section 7" at the end of such sentence.

13. The fourth sentence of Section 16(e) of the Member Agreement is modified by adding the words "to the extent that Member would have been required to indemnify and hold harmless Litle and FUSA if Member had been acting on its own behalf."

14. Section 19 is amended as follows: (a) the words "processed under this Agreement" are added after the words "verify all transactions" in the first sentence thereof, (b) the words "that relate solely to transactions processed under this Agreement" are added after the words "books, records, and other papers," and (c) the second sentence thereof is deleted in its entirety.

15. Without limiting the generality of anything set forth in Section 20 of the Member Agreement or the Confidentiality Agreement, Litle and FUSA expressly agree not to sell or disclose to, or otherwise share with, any

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Redacted

Privilege Redacted

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third party any list of, or other information concerning, Member's customers.

Except as set forth above, the terms of the Member Agreement shall continue in full force and effect. If the foregoing conforms to your understanding of our agreement, please so indicated by signing below.

Very truly yours,

PHILIP MORRIS INCORPORATED

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

Accepted and Agreed To:

LITTLE & COMPANY, INC.

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

FIRST USA MERCHANT SERVICES, INC.

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

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